

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

JUDY A. AKERS,
Plaintiff

vs.

JO ANNE B. BARNHART,
COMMISSIONER OF
SOCIAL SECURITY,

Defendant

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) Civil Action No. 05-1051-T An
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THOMAS M. GOULD
CLERK U.S. DISTRICT COURT
W.D. OF TN JACKSON

FINAL JUDGMENT REVERSING COMMISSIONER AND
ORDERING REMAND UNDER SENTENCE FOUR OF 42 U.S.C. § 405 (g)

After reviewing the above-captioned case, Agency counsel requested that the Appeals Council undertake further review of this case, which it agreed to do. Accordingly, the parties jointly propose that this case be reversed and remanded pursuant to sentence four of 42 U.S.C. § 405(g) for further consideration and a new hearing.

IT IS THEREFORE ORDERED that the Commissioner's decision is reversed and the matter remanded under sentence four of 42 U.S.C. § 405(g) for further development. Upon remand, the Appeals Council will instruct the administrative law judge ("ALJ") to conduct a new hearing and issue a new decision, wherein he will request a statement from Plaintiff's treating sources covering the period between August 11, 2000 and February 9, 2005 (the day before Plaintiff was found disabled in connection with subsequent concurrent applications) regarding what she could still do despite her alleged impairments. If necessary, the ALJ will re-contact Plaintiff's treating sources for clarification and/or evidence. It is further ordered that the Appeals Council will instruct the ALJ to address all medical opinions of record, by articulating why each opinion is or is not persuasive. Also, the Appeals Council will instruct the ALJ to properly evaluate Plaintiff's subjective complaints by setting forth his consideration of the applicable factors discussed in 20 C.F.R. §§ 404.1529 and

416.929, and Social Security Ruling ("SSR") 96-7p. Additionally, the ALJ will be instructed to obtain the medical evidence submitted in connection with Plaintiff's most recent applications, if possible, and consider such evidence to the extent it is relevant to the issues before the ALJ. Also, if warranted by the expanded record, the Appeals Council will instruct the ALJ to receive evidence from a vocational expert ("VE") regarding Plaintiff's ability to perform her past relevant work in light of her medical limitations during the period at issue. In the alternative, the ALJ will obtain evidence from a VE about whether there are other jobs Plaintiff could have performed given her limitations and vocational profile during the period at issue. Finally, in accordance with SSR 00-4p, if there are any discrepancies between the VE's testimony and the Dictionary of Occupational Titles, the ALJ be instructed to identify and resolve any such discrepancies.

Upon remand, the Commissioner shall take action consistent with the foregoing.

SO ORDERED.

11 October 2005

Date

James D. Todd
James D. Todd
United States District Court Judge

CONSENTED TO AND APPROVED BY:

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This notice confirms a copy of the document docketed as number 22 in case 1:05-CV-01051 was distributed by fax, mail, or direct printing on October 13, 2005 to the parties listed.

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Honorable James Todd
US DISTRICT COURT